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RHODE ISLAND WORKERS' COMPENSATION ACT 2001 LEGISLATIVE HIGHLIGHTS

The purpose of this letter is to bring to your attention the significant changes made during the 2001 legislative session that impact the Workers' Compensation Act. This may not be a complete report of all legislation passed in 2001 regarding workers' compensation.

2001-S0476 Substitute A (As amended). Relating to Workers' Compensation:

Section 28-29-2. Definitions. Amended by deleting the language excluding the president, one vice president, secretary, and/or treasurer of a corporation from the definition of an "employee". Further amended to provide that any person appointed a corporate officer between January 1, 1999 and December 31, 2001 who was not previously an employee of the corporation, is not an employee for purposes of the Workers' Compensation Act unless the corporate officer files a notice to be included. Effective 1/1/02.

Section 28-29-13. Posting of summaries of law. Changes the fine imposed against employers that fail to display the required workers' compensation poster in the workplace from \$100 per day to \$250 per offense. Also gives the Workers' Compensation Court the jurisdiction to enforce compliance with fines assessed by the director under this section.

Section 28-29-17. Waiver of common law rights - Notice of claim of common law right. Amended to provide that a corporate officer, in order to claim their common law right of action to recover damages for personal injuries, must give their employer notice in writing at the time of their appointment that they are claiming this right and, within ten days thereafter, file a copy of the notice with the director. If the appointment is made before the employer became subject to or elected to become subject to the Act, the corporate officer must provide the notice and file with the director within ten days after the employer becomes subject to the act. Effective 1/1/02.

Section 28-29-19 Waiver of claim of common law rights. Amended to provide that a corporate officer that claimed their common law right of action can rescind that claim by filing a written notice with the employer. Effective 1/1/02.

Section 28-30-2 Appointment and terms of judges. Amended to provide that whenever there is a vacancy in the office of the chief judge of the Workers' Compensation Court, the chief justice of the Rhode Island Supreme Court shall designate one of the judges of the Workers' Compensation Court to perform the duties of the chief judge until the vacancy is filled or the disability removed. Also provides that vacancies on the Workers' Compensation Court will be filled in accordance with the general laws governing judicial selection.

Section 28-30-4.1 Deputy administrator - Appointment and term of office. Amended to change the term of the deputy administrator of the Workers' Compensation Court from twelve to five years. Effective 1/02.

Section 28-30-22 Medical advisory board. Increases the reimbursement for members of the board from two hundred dollars to three hundred dollars per day, not to exceed six thousand dollars per member in any year.

Section 28-32-2 Penalty for failure to report. Increases the penalty assessed against an employer that fails to file a first report of injury from \$100 to \$250 per offense.

Section 28-33-5 Medical services provided by employer. Amended to provide that the employer is not liable to pay for or provide hearing aids or other amplification devices.

Section 28-33-8 Employee's choice of physician, dentist, or hospital - Payment of charges - Physician reporting schedule. Amended to provide that a health care provider shall provide the employee and his or her attorney with copies of the notification of compensable injury form; the notice of release following the injured employee's release or discharge, return to work, and/or recovery from an injury; and the six week itemized bills and affidavits. The prior law required copies only to the insurer or self-insured employer. Also amended to provide that in addition to notifying the employer when an employee is able to return to full or modified work, the treating physician shall notify the employee and his or her attorney.

Section 28-33-18.2 Suitable alternative employment. Amended to provide that an employee that accepts suitable alternative employment is entitled to a weekly compensation equal to 66 2/3% of the difference between the employee's average weekly wage, earnings or salary before the injury and his or her weekly wages, earnings or salary from the suitable alternative employment.

Section 28-33-18.3 Continuation of benefits - Partial incapacity. Postpones the definition of material hindrance to injuries occurring on or after July 1, 1997.

Section 28-33-19 Additional compensation for specific injuries. Establishes revised guidelines for claims of occupational deafness. Applies to any occupational hearing loss that occurs on or after September 1, 2003 except for acuity hearing loss related to a single event which became effective 7/5/01.

Section 28-33-47 Reinstatement of injured worker. Amended by deleting the provision making it mandatory for an insurance carrier to continue to pay benefits during the period an employer is in violation of this section.

Section 28-34-5 Examination and report by physician. Amended to provide the Workers' Compensation Court with the discretion on whether to appoint one or more impartial physicians to report back to the Court.

Section 28-35-12 Petition for determination of controversy - Contents and filing. Amended to provide that a petition alleging the non-payment or late payment of attorney fees and costs may be filed after 14 days from the date the payment is due. Also amended to provide that medical bills for services ordered paid by decree or pretrial order shall be paid within 14 days of the entry or decree, and that in the event the bills are not timely paid, a petition to enforce may be filed without additional written notice to the employer or insurer.

Section 28-36-12 Notice of issuance, cancellation, or failure to renew policies. Amended to provide that the Workers' Compensation Court has jurisdiction to enforce compliance with fines assessed by the director against insurance companies that fail to timely notify the director of the issuance, cancellation or failure to renew a policy.

Section 28-36-13 Information furnished by insurers or self-insurers on request of director. Amended to provide that the Workers' Compensation Court has jurisdiction to enforce compliance with fines assessed by the director against insurers, employers, self-insurers and group self-insurers that fail to comply with this section.

Section 42-16.1-12 Fraud prevention unit- Appointment - Duties - Qualifications - Annual Report. Changes the due date for the Fraud Unit's annual report from November 15 of each year to February 15 for statistical purposes.

All of the above take effect as of July 5, 2001 except as otherwise noted.

Dr. Lee H. Arnold, Director